

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JOHN KIM GOBERT §
v. § CIVIL ACTION NO. 6:07cv570
VICKIE L. WATSON §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff John Kim Gobert, proceeding *pro se*, filed this lawsuit complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On January 3, 2008, the Magistrate Judge ordered Gobert to pay an initial partial filing fee of \$18.68 or to show good cause for his failure to do so, pursuant to 28 U.S.C. §1915(b). In a separate order, Gobert was directed to file an amended complaint setting out his claims with more factual specificity. Gobert received copies of these orders on January 8, 2008, but to date has not complied with either of these orders, nor has he responded in any way. On February 1, 2008, he filed a motion asking that the Court hold his lawsuit in abeyance until his release from confinement, which he projected as May 8, 2008, but this motion made no mention of the filing fee or an amended complaint.

After review of the pleadings, the Magistrate Judge issued a Report on February 27, 2008, recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Gobert received a copy of this Report on March 5, 2008, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate

review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and the Report of the Magistrate Judge in this case and has determined that this Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 2nd day of April, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**